

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL RENE PEREZ,

Petitioner,

No. CIV S-04-2138 LKK GGH P

vs.

DERRAL G. ADAMS,

Respondent.

ORDER

Petitioner, a state prisoner proceeding pro se, has filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On July 7, 2005, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. Petitioner has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

1 The court has reviewed Gaston v. Palmer, No. 01-56367, 2005 WL 1803261 (9th
2 Cir. Aug. 2, 2005) and finds that it does not change the outcome of the magistrate judge's
3 findings and recommendations.

4 On July 28, 2005, petitioner filed a request for appointment of counsel. Because
5 the court orders this action dismissed, the request for appointment of counsel is denied.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Petitioner's July 28, 2005, request for appointment of counsel is denied;
8 2. The findings and recommendations filed July 7, 2005, are adopted in full; and
9 3. Respondent's January 16, 2005, motion to dismiss is granted.

10 DATED: August 25, 2005.

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12 /s/Lawrence K. Karlton
13 UNITED STATES DISTRICT JUDGE

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